

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Arthur D'Amario, III, ) No. CV 05-0540-TUC-FRZ (GEE)  
Petitioner, ) MJ 05-4853-TUC-GEE  
vs. )  
United States of America, )  
Respondent. )  
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**ORDER**

Before the Court for consideration is the Report and Recommendation issued by Magistrate Judge Glenda E. Edmonds, recommending that the District Court, chosen by lot, dismiss Petitioner's Motion to Vacate, Set Aside or Correct Sentence pursuant to Title 28, United States Code, Section 2255 [Doc. #28], based on a lack of jurisdiction for the reasons set forth in the Report and Recommendation.

No objections were filed.

The Court, having made an independent review of the record herein, finds that the Report and Recommendations of Magistrate Judge Edmonds shall be adopted as the findings of fact and conclusions of law of this Court.

Based on the foregoing,

**IT IS ORDERED** that Magistrate Judge Edmonds' Report and Recommendation is hereby **ACCEPTED** and **ADOPTED** as the findings of fact and conclusions of law by this Court;

1           **IT IS FURTHER ORDERED** that the Petitioner's Motion to Vacate, Set Aside or  
2           Correct Sentence [Doc. #28 in MJ 05-4853] is **DENIED**;

3           **IT IS FURTHER ORDERED** that Petitioner's 28 U.S.C. § 2255 Petition (CV-05-  
4 540) is summarily **DISMISSED**.

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6 DATED this 26<sup>th</sup> day of January, 2007.

Frank R. Zapata  
FRANK R. ZAPATA  
United States District Judge

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